

DOCKET NO. FST-CV15-5014808S)	SUPERIOR COURT
)	
WILLIAM A. LOMAS)	JUDICIAL DISTRICT OF
)	STAMFORD/NORWALK
Plaintiff,)	
)	
v.)	AT STAMFORD
)	
PARTNER WEALTH MANAGEMENT, LLC,)	
KEVIN G. BURNS, JAMES PRATT-HEANEY,)	
WILLIAM P. LOFTUS)	
)	APRIL 5, 2016
Defendants.		

**PLAINTIFF’S MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANTS’
MOTIONS TO ADMIT COUNSEL *PRO HAC VICE***

Plaintiff William A. Lomas (“Lomas”) objects to the Motions for Admission *Pro Hac Vice* (the “Motions”) filed by Defendants Partner Wealth Management, LLC, Kevin G. Burns, James Pratt-Heaney and William P. Loftus, seeking to admit attorneys Gerald P. Fox, Edward D. Altabet and Steven I. Wallach as appearing counsel in this litigation.¹ This is the second time that Defendants’ have sought the admission of out-of-state counsel to represent them in this breach of contract matter. The Court should deny these most recent Motions because they fail to establish “good cause” for *pro hac vice* admission; *i.e.* a longstanding friendship with a single defendant and unspecified significant experience litigating similar contract cases is insufficient to satisfy Connecticut’s *pro hac vice* standards. Attorneys Altabet and Wallach seek admission to assist Attorney Fox, but do not otherwise assert a separate basis for admission.

FACTUAL BACKGROUND

This breach of contract case arises out of a limited liability company agreement among four members who are each residents of Connecticut. The gravamen of the claim is that

¹ Partner Wealth Management, LLC will be referred to as “PWM.” Defendants Burns, Pratt-Heaney and Loftus will be referred to as the “Individual Defendants.” PWM and the Individual Defendants will be referred to as the “Defendants.”

Defendants have refused to purchase Lomas' equity interest in PWM, in accordance with a formula specified in the PWM Limited Liability Company Agreement. *See* Amended Complaint ("AC"), Ex. A, §11.9. Rather, Defendants have sought to amend the Agreement, and to do so in a manner adverse to Lomas, materially limiting the cash buyout to which he is contractually entitled. AC ¶42.

Lomas was a 25% member of PWM. AC ¶1. On October 13, 2014, he tendered his withdrawal in accordance with the Agreement's three month notice requirement. AC ¶17, Ex. A, §8.5. The effective date of his withdrawal was January 14, 2015. AC ¶17. Upon withdrawal of a member, the Agreement provides:

If any Member withdraws from the Company for any reason except as provided in Sections 8.2 through 8.4, the Company or the remaining members shall be obligated to purchase from the Member, and the Member shall be obligated to sell to the Company or the remaining Members, all of his Interests of the Company at the price established in accordance with the provisions of Section 8.7(b).

AC ¶18, Ex. A, §8.5.

After Lomas tendered his withdrawal the Individual Defendants sought to amend the Agreement's provisions concerning the manner in which Lomas' equity interest would be valued and purchased by them. AC ¶¶33-42. To carry out their plan they enlisted the assistance of Defendants' prior counsel, Attorney David R. Lagasse, who was previously admitted *pro hac vice* over Lomas' objection. In Defendants' Brief In Further Support of David R. Lagasse's Motion for Admission *Pro Hac Vice*, dated August 19, 2015, Defendants asserted they had shown good cause for his admission "based on his expertise in the area of partnership compensation and the specific knowledge he possesses of PWM's compensation structure as a

result of his continuous representation of the company over a period of more than 18 months.”
Defendants’ Brief at p. 10.

Now, six months after having represented to this Court that Attorney Lagasse had needed skill and experience, they have terminated his services and seek to be represented by Attorneys Fox, Altabet and Wallach, whose offices are based in New York and California. Attorney Fox’s *Pro Hac Vice* Motion, ¶1. Attorney Fox seeks admission on the sole basis that he and Defendant Burns have a personal relationship. *Id.* at ¶3. No attorney-client relationship is claimed. Attorney Fox additionally makes the conclusory statement that he “has significant experience litigating and trying cases concerning issues raised in the complaint and likely to be raised in defendants’ pleading.” *Id.* Attorneys Altabet and Wallach seek admission only in connection with Attorney Fox’s admission. They assert that they are “colleague[s] of Attorney Fox and [their] assistance is necessary for prosecution and/or defense of claims directed against, or to be raised by defendants...” *See* Attorneys Altabet and Wallach’s *Pro Hac Vice* Motions, ¶3.

I. DEFENDANTS HAVE NOT -- AND CANNOT -- SATISFY THE “GOOD CAUSE” REQUIREMENT FOR *PRO HAC VICE* ADMISSION.

Connecticut Practice Book § 2-16 is clear:

Good cause for according [the privilege of *pro hac vice* admission] shall be limited to facts or circumstances affecting the personal or financial welfare of the client and not the attorney. Such facts may include a showing that by reason of a ***longstanding attorney-client relationship*** predating the cause of action or subject matter of the litigation at bar, the attorney ***has acquired a specialized skill or knowledge*** with respect to the client’s affairs important to the trial of the cause, or that the litigant is unable to secure the services of Connecticut counsel.

(Emphasis added.)

Admission *pro hac vice* is not an absolute right. State courts possess the inherent power to regulate admission to the bar. *See Leis v. Flynt*, 439 U.S. 438, 443(1979); *State v. Reed*, 174

Conn. 287, 293 (1978). Included within the general regulatory power is the right to establish guidelines for determining when an out-of-state attorney should be admitted to practice. *Reed*, 174 Conn. at 293. Connecticut Practice Book § 2-16 provides that the privilege to practice as a visiting lawyer must be limited to “special and infrequent occasion and for good cause shown.” Conn. Prac. Book. § 2-16. Ordinarily, “the mere fact that a client desires out-of-state counsel to represent him in the courts of this state is not sufficient reason, in and of itself, to warrant granting such permission...” *Silverman v. St. Joseph’s Hospital*, 168 Conn. 160, 175 (1975).

Defendants have failed to carry their burden of establishing good cause. Rather than set forth specific facts which bear upon the personal or financial welfare of the Defendants, the Motion and accompanying sworn statement of Attorney Fox contain only conclusory statements. Attorney Fox alleges that “Good cause exists to grant this motion because Attorney Fox has a longstanding **personal** relationship with the defendant Kevin G. Burns, which predates this matter, and has significant experience litigating and trying cases concerning issues raised in the complaint and likely to be raised in defendants’ pleading. Mr. Burns has discussed with the defendants... having Attorney Fox represent them... and... each wish Attorney Fox to represent them...” Attorney Fox’s *Pro Hac Vice* Motion ¶3; Attorney Fox’s Sworn Statement ¶10. The sworn statement further asserts, “I therefore possess skill and knowledge with regard to the defendants’ affairs which will be of benefit to them in litigating this matter.” Attorney Fox’s Sworn Statement ¶10. But the Motion and sworn statement are empty of factual support for these conclusory statements.

Lomas respectfully submits that Defendants fail to substantiate their claim of good cause because there is, in fact, no “good cause” as contemplated by the law of this state. A personal relationship with Kevin Burns is not grounds for pro hac vice admission. There simply is no

long-standing attorney-client relationship. Attorney Fox, by his own admission, never represented PWM or the defendants' affairs with regard to PWM. *See* Attorney Fox's *Pro Hac Vice* Motion ¶3. Furthermore, the unspecified "specialized skill or knowledge" is no different from the skill and knowledge possessed by numerous practitioners across this state and therefore does not meet the requirements of Connecticut Practice Book § 2-16. Thus, the attorneys seeking admission have no more of a connection to this case, and no more of a specialization in these matters, than any other seasoned litigator in Connecticut.

Even viewing the facts most favorably to Defendants, the Motions fail. Conclusory statements are insufficient to establish the requisite good cause for admission *pro hac vice*. Moreover, Defendants have not shown what specialized expertise Attorney Fox, Altabet or Wallach brings to bear. This is a Connecticut dispute between Connecticut parties concerning a Connecticut contract governed by Connecticut law. Defendants have already retained seasoned Connecticut counsel in Attorney Richard J. Buturla, chair of the litigation department of Berchem, Moses & Devlin, P.C., a Connecticut-based firm with offices in Milford, Westport and Norwalk. On these facts, Defendants cannot establish good cause for admitting Attorney Fox, Altabet or Wallach *pro hac vice* despite the conclusory statements to the contrary contained in the Motions and accompanying sworn statements.

CONCLUSION

For the foregoing reasons, Lomas respectfully submits that Defendants have failed to establish the requisite good cause to support *pro hac vice* admission. Accordingly, Lomas respectfully requests that the Court deny Defendants' Motions for Admission *Pro Hac Vice*.

Dated: April 5, 2016
Hartford, Connecticut

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CERTIFICATE OF SERVICE

This is to certify that on April 5, 2016, a copy of the foregoing was served by e-mail and first class mail, postage prepaid, to all counsel of record as follows:

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